

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN NEELY	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO. _____
	:	
CITY OF READING	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	

CIVIL ACTION COMPLAINT

Plaintiff Martin Neely, by and through counsel, hereby complains as follows against Defendant City of Reading:

I. Introduction

1. This civil action presents one claim of wrongful termination under Pennsylvania law. Plaintiff Martin Neely successfully applied for the position of Public Works Director with Defendant City of Reading. His hiring was publicly celebrated at a press conference on March 6, 2023. Thereafter, the City learned Mr. Neely had filed a previous workers' compensation claim against one of his prior employers and withdrew the job offer. The City's decision to rescind Mr. Neely's job offer for this reason violates the public policy of the Commonwealth of Pennsylvania¹ and Plaintiff is entitled to receive damages for the harm

¹ Aside from being illegal, the City's decision to pull Plaintiff's job offer for this reason is incredibly dumb. The City of Reading, as do other major urban areas, desperately needs highly trained, experienced personnel for it to run efficiently and have a chance to thrive in a digital world. Yet now the City will remain without such a crucial position being filled, to the detriment of its citizens and businesses. It's just another unforced error.

the City caused him.

II. Jurisdiction and Venue

2. The instant action is initiated pursuant to the laws of the Commonwealth of Pennsylvania. The United States District Court for the Eastern District of Pennsylvania may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *Int'l Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

3. The United States District Court for the Eastern District of Pennsylvania may properly maintain original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. § 1332 as the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest or costs and the parties are citizens of different States.

4. Venue is properly laid in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(a)(2) because a substantial part of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

III. Parties

5. Plaintiff is an adult individual and citizen of the United States and the State of New Jersey.

6. Defendant is the county seat for Berks County, PA. With an estimated population of 95,112 as of the 2020 census, the City of Reading is the fourth most populated city in the state, after Philadelphia, Pittsburgh, and Allentown. See <https://www.readingpa.gov/> (last visited 3/23/23).

7. Eddie Moran is the Mayor the City of the Reading, having been elected in November 2019 and inaugurated in January 2020.

IV. Factual Background

8. Plaintiff is a highly educated and experienced engineer.

9. Plaintiff has earned a Master's degree in Science in Civil Engineering with Geotechnical/Soils Specialization from Northeastern University, a second Master's degree in Science in Environmental Planning and Management from Johns Hopkins University, along with a Bachelor's degree in Science in Civil Engineering.

10. Plaintiff is also licensed as a Professional Engineer.

11. In or about January 2023, the City hired a recruiter to assist in finding qualified candidates for the position of Public Works Director.

12. On or about January 30, 2023, the recruiter contacted Plaintiff to discuss the Public Works Director position.

13. On or about February 6, 2023, Plaintiff had his first interview for the position with the recruiter.

14. After that interview, Plaintiff submitted an application for the position, along with the other requested materials such as a resume and letters of reference.

15. On or about February 23, 2023, Plaintiff met with the City's HR Director Marcelino Colon, the recruiter, and two other City officials for a two-hour, in-person interview in City Hall.

16. The interview went well, as Plaintiff was invited to return the next day to meet with the City's Managing Director.

17. On or about February 24, 2023, Plaintiff met in City Hall with Colon, City Managing Director William Heim, and Acting Public Works Director Kyle Zeiber.

18. The interview went well, as Plaintiff was invited to return to meet with Mayor Moran

19. On or about February 28, 2023, Plaintiff met with Mayor Moran and Colon. Again, the interview went well, as later that day Colon called Plaintiff to extend an offer of employment on behalf of the City.

20. Plaintiff accepted the job offer.

21. Mayor Moran convened a press conference on Monday, March 6, 2023 and gleefully announced Plaintiff's hiring. Moran praised Plaintiff as follows:

“Mr. Neely has extensive experience in engineering project delivery, quality management and public works, including project engineering, construction management, and geotechnical soils engineering. He has managed various public sector projects on behalf of large public companies and served as a senior consulting engineer in the public sector,” said Moran.

See

<https://berksweekly.com/news/mayor-moran-announces-his-choice-for-public-works-director/> (last visited 3/24/23).

22. **On or about March 15, 2023, Plaintiff was notified that the City was rescinding its offer of employment because the City learned he had filed a lawsuit against a prior employer.** That lawsuit entailed claims for workers' compensation, wrongful termination and discrimination.

23. On or about March 17, 2023, the City's Managing Director William Heim called Plaintiff and asked Plaintiff to withdraw his application for the Public Works Director position.

24. In that call, **Heim threatened Plaintiff.** He told Plaintiff that if he refused to withdraw his application by the end of business day, the City would give its reasons to the news media regarding rescinding the offer made to Mr. Neely, and those reasons would be damaging to Plaintiff's reputation.

25. Plaintiff refused.

COUNT ONE
WRONGFUL TERMINATION UNDER PENNSYLVANIA LAW²

26. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

² Plaintiff will add claims for illegal retaliation under federal and state anti-discrimination laws once he has exhausted those administrative remedies.

27. In Pennsylvania, it is unlawful to deny employment because an individual has filed a workers' compensation claim. Shick v. Shirey, 716 A.2d 1231 (Pa. 1998).

28. The City's conduct as aforesaid constitutes an illegal denial of employment.

29. As a result of the City's actions, Plaintiff has suffered pecuniary losses, emotional pain, anguish and suffering, humiliation, inconvenience, loss of enjoyment of life, and other non-pecuniary losses, as set forth herein.

30. Defendant's conduct as aforesaid reflected an "evil motive" or "reckless indifference to the rights of others."

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- A. Defendant is to be permanently enjoined from retaliating against employees who file claims for workers' compensation;
- B. Defendant is to promulgate and adhere to a policy prohibiting wrongful terminations;
- C. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, and seniority.
- D. Plaintiff is to be awarded actual damages, as well as damages for the pain, suffering, emotional distress, and humiliation caused him by Defendant's actions and omissions;
- E. Plaintiff is to be awarded punitive damages;

- F. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper and appropriate;
- G. Plaintiff is to be awarded the costs and expenses of this action;
- H. Plaintiff's claims are to receive a trial by jury to the extent allowed by applicable law;
- I. Plaintiff has also endorsed this demand on the caption of this Complaint in accordance with Federal Rule of Civil Procedure 38(b).

Respectfully submitted,

WEINSTEIN LAW FIRM, LLC

By: /s/ Marc E. Weinstein
Marc E. Weinstein, Esquire
500 Office Center Drive, Suite 400
Fort Washington, PA 19034
267.513.1942 tel
PA Atty No. 79474
marc@meweinsteinlaw.com
Counsel to Plaintiff

Dated: March 24, 2023

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MARTIN NEELY

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Marc E. Weinstein WEINSTEIN LAW FIRM, LLC 500
Office Center Dr., Ste. 400, Ft. Washington, PA 19034

DEFENDANTS

CITY OF READING

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC sec. 1332

Brief description of cause:
WRONGFUL TERMINATION

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

Mar 24, 2023

SIGNATURE OF ATTORNEY OF RECORD

/s/ Marc E. Weinstein

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Robbinsville Twp, New Jersey
Address of Defendant: City of Reading, Berks County, PA
Place of Accident, Incident or Transaction: CITY OF READING, BERKS COUNTY, PA

RELATED CASE, IF ANY:

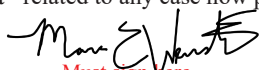
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 03/24/2023


Must sign here
Attorney-at-Law / Pro Se Plaintiff

79474

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☐ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify): _____
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☒ 9. All other Diversity Cases
(Please specify): WRONGFUL TERMINATION

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Marc E. Weinstein, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 03/24/2023


Sign here if applicable
Attorney-at-Law / Pro Se Plaintiff

79474

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.